

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY  
OF MILPITAS APPROVING FINAL ACCEPTANCE OF MANOR PUMP STATION IMPROVEMENTS  
PROJECT NO. 3385 & 3396 and RELEASING IMPROVEMENT BOND**

WHEREAS, certain improvements were installed in Manor Pump Station Improvements, Project #3385 & 3396 under and pursuant to the provisions of an improvement contract between the City of Milpitas, a municipal corporation of the State of California, and D.W. Nicholson Corporation; and

WHEREAS, said D.W. Nicholson Corporation, as principal, and the Western Surety Company as surety, executed a certain faithful performance bond conditioned upon the faithful performance of the provisions of said improvement contract and upon the faithful performance of all improvement work required thereunder; and

WHEREAS, said improvements were completed, finally inspected by the City Engineer of the City of Milpitas, and accepted; and

WHEREAS, a period of one year or more has expired after the date of said acceptance of said improvements; and

WHEREAS, the City Engineer has advised said City Council that said D.W. Nicholson Corporation has remedied, restored, repaired, or replaced at his sole expense and to the satisfaction of said City Engineer all defects, damages, or imperfections, if any there were, due to or arising from faulty materials or workmanship and appearing within said period of one year from the date of acceptance; and

WHEREAS, said City Engineer recommends to the City Council of said City, that said faithful performance bond be released.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Milpitas as follows:

That the certain performance bond furnished by the above named D.W. Nicholson Corporation, as principal, and the above named surety in connection with those certain improvements for the above designated project, is hereby released and discharged; provided, however, that nothing herein contained shall in any way be deemed to be a waiver, release or relinquishment by City of any obligations imposed upon the contractor or his surety, or sureties, by law or by the above referred to improvement contract, save and except those obligations specifically mentioned herein.

PASSED AND ADOPTED this 16<sup>th</sup> day of August 2005, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

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Mary Lavelle, City Clerk

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Jose S. Esteves, Mayor

APPROVED AS TO FORM:

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Steven T. Mattas, City Attorney

# CITY OF MILPITAS

## MANOR PUMP STATION IMPROVEMENTS

### PROJECT NO. 3385 & 3396

